

CENTRAL ADMINISTRATIVE TRIBUNAL,
CHANDIGARH BENCH

O.A.NO.060/01005/2016 Orders pronounced on:04.09.2018
(Orders reserved on: 21.08.2018)

CORAM: **HON'BLE MR. SANJEEV KAUSHIK, MEMBER (J) &
HON'BLE MS. P. GOPINATH, MEMBER (A)**

1. Baljinder Singh Sandhu son of Shri Jagir Singh, Resident of Village and Post Office Basatian Wala, Tehsil Bilaspur, District Yamuna Nagar (Haryana), age 43, Post "C".
2. Richhpal Singh son of Shri Joginder Singh, Village and Post Office Niwarsi, Tehsil Thanesar, District Kurukshetra (Haryana), age 41, Post-C.

Applicants

(By: **MR. S.R. HOODA, ADVOCATE**)

Versus

1. Union Territory, Chandigarh through its Director Public Instruction (S), Education Department, Chandigarh Administration, U.T. Chandigarh.
2. Registrar Education (S), Education Department, Chandigarh Administration, U.T. Chandigarh.

(By : **MR. RAKESH VERMA, ADVOCATE.**

3. National Council for Teachers Education through Secretary, NCTE Hans Bhawan, Wing-II-I, Bahadur Shah Zafar Marg, New Delhi.

(BY : **NONE**)

Respondents

O R D E R
HON'BLE MR. SANJEEV KAUSHIK, MEMBER (J)

1. The applicants have filed this Original Application under section 19 of the Administrative Tribunals Act, 1985, seeking quashing of impugned orders dated 7.6.2016 (Annexure A-14) and 12.7.2016 (Annexure A-15), vide which they were declared ineligible for the post of JBT, in Education Department of Chandigarh Administration.

2. The facts of the case, which led to filing of the instant Original Application, are that both the applicants, while serving the Army, were deputed for undergoing UEI Course, at Army Education Corps Training College and Centre, Panchhmarhi, Madhya Pradesh, and both of them obtained the Certificate in Teaching (equivalent to JBT) from AEC Training College and Centre, Panchhmarhi (M.P), an autonomous college of Barkatullah Vishvavidyalaya, Bhopal. After their discharge from Army, they applied for the post of Junior Basic Teacher (JBT), in response to the advertisement dated 2.11.2014, issued by the Education Department of Chandigarh Administration, against 56 vacancies of Ex-servicemen (ESM) and were selected. However, they were not allowed to join their duties on the ground that Certificate in Teaching of AEC, held by them, is not a recognized programme of the NCTE. They have pleaded that UEI diploma awarded by Army Education Corps is equivalent to educational qualification required for the post of JBT in various institutions / States and as such the respondents cannot deny them appointment to the indicated post. Hence, the O.A.

3. The respondents have filed a reply. They plead that the applicants did participate in the selection process and qualified but

during process of verification of documents, the applicants failed to submit the equivalence certificate of JBT post from National Council for Teacher Education (NCTE) and no document was shown to prove that AEC Training College & Centre, Panchmarhi (M.P) is recognized institute for teacher training by NCTE. They submit that as per National Council for Teacher Education Act, 1993, NCTE is authorized to prescribe the minimum qualification for appointment of Teachers and in exercise of that power, vide notification dated 3.9.2001, it has prescribed minimum qualification of teachers for Physical Education and on that basis itself, recruitment rules were notified by Chandigarh Administration. The NCTE was asked to clarify as to whether a person holding certificate of teaching obtained from AEC, Panchmarhi (M.P) is eligible for the post of JBT Teacher or not to which a reply was sent on 25.5.2016 (Annexure A-14) and Annexure A-15, that it is not a recognized programme of the NCTE and as such certificate is not valid for the purpose of employment under the Central Government / State Government etc. Thus, they have prayed for dismissal of the Original Application.

4. We have heard the learned counsel for the parties at length and with their able assistance, also examined the pleadings minutely.

5. The learned counsel for the applicants vehemently argued that the when the other State Governments are granting benefit of equivalency to UEI qualified ex-servicemen for the post of JBT, then the respondent U.T. Administration cannot deny this benefit, it in the garb of clarification / reply given by the NCTE but on the

other hand learned counsel for the respondents vehemently argued that since the competent authority (NCTE) itself has issued a clarification on the issue of equivalency to the detriment of the applicant, so their claim has rightly been rejected by them and the applicants do not deserve any help.

6. On a careful consideration of the arguments of learned counsel for the parties and pleadings on record, we find that the claim of the applicants deserves to be accepted for the reasons to follow.

7. It is not in dispute that no doubt, the NCTE has clarified the qualification possessed by the applicants that it is not recognized / equivalent, but it is also equally true that the issue is no longer res-integra and stands settled by now by our own Hon'ble jurisdictional High Court in a bunch of cases, leading one being the case of **STATE OF HARYANA & OTHERS VS. JOGINDER SINGH & OTHERS**, L.P.A. No. 1641 of 2010 decided on 5.12.2012 (Annexure A-16). In those cases, the issue framed was as to whether 'Unit Education Instructor Course' undertaken by the Army Educational Corps Training College and Centre, Panchmarhi, can be treated to be equivalent to the J.B.T. teachers, so as to make them eligible for appointment as J.B.T. Teachers, in the State of Haryana, and after elaborate discussion, the Court recorded a definite finding that such qualification is equivalent to JBT Course. The relevant observations and findings of the Hon'ble Court are reproduced as under :-

"9. Based upon these instructions, it is opined that since the course undertaken by the writ petitioners (now respondents) at training college has been declared equivalent to J.B.T. certificate by the Madhya Pradesh Government, it will be treated as equivalent to J.B.T. for the purpose of appointment in the State of Haryana as well.

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10. We would like to point out here that the appellants herein had relied upon the judgment of a Division Bench in the case of **Azad Singh and others Vs. State of Haryana**, Civil Writ Petition No. 8882 of 1997, decided on 08.07.1997, as per which the course in question was not treated as equivalent by the State of Haryana. The learned Single Judge has remarked that in the said judgment the attention of the Division Bench was not drawn to the aforesaid material and particularly the recognition granted by the State of Madhya Pradesh. It is the submission of learned counsel for the appellants that the recognition granted by the State of Madhya Pradesh would be of no avail inasmuch as there has to be a specific orders either of the Director General, Ministry of Defence, Government of India or State of Haryana in this behalf. It is not necessary to go into this aspect any longer. As pointed out above, the Director General has now circulated the Directory of Equation of Service Trades and guide to registration of Defence Service applicants for employment on 05.10.2012. In this Directory, the Unit Education Instructor Course is specifically treated as equivalent to 'Primary School Teachers'. According to us, this is the clincher and no further enquiry in this behalf is even required. Once the Director General has done the necessary exercise and has declared the aforesaid 'Unit Education Instructor Course' as equivalent to 'Primary School Teacher', it stands established therefrom that all these respondents who are holder of 'Unit Education Instructor Course', the said qualification is to be treated as equivalent to J.B.T. course.

11. As a result, all the appeals filed by the State of Haryana against the impugned judgment fails and are hereby dismissed. As a consequence, those respondents, who were given the appointments, their appointments cannot be terminated on this ground and they would be allowed to continue to work. Further, those who are awaiting appointment letters shall be issued appointment letters within a period of one month from today. It is made clear that those who have not been given appointments pursuant to the selection made in the year 2006, their seniority shall be reckoned from the date others were given appointments and that period shall be counted for all other purposes except that they will not be given any salary/wages for that period.

12. However, the Letters Patent Appeals No. 548 of 2011, 1322 of 2011 and 1351 of 2011 preferred by those candidates, whose writ petitions were dismissed by the learned Single Judge vide impugned orders dated 25.05.2009, 18.11.2010 and 20.10.2009, stand allowed and these three appellants shall also be entitled to appointment letters as we have been informed that large number of posts reserved for Ex-Servicemen still exists."

8. A perusal of the Annexure A-1 letter dated 4.7.2000 issued by Government of M.P., Department of Higher Education, to

Principal, AEC Training College & Centre, M.P. shows that UEI Course Certificate of AEC has been declared equivalent to JBT Certificate, and even Government of India, Ministry of Defence, Director General, Department of Ex-Servicemen Welfare Directorate General Resettlement, New Delhi vide amended Directory of Equation of Service Trade and Guide to registration of Defence Service has clarified that UEI is eligible qualification for Primary School Teachers. Thus, we find no earthly reason to accept the stand taken by the respondents as to why the qualification possessed by applicants cannot be treated as equivalent for the post of JBT, more so when Hon'ble Jurisdictional High Court has already clinched the issue in favour of holders of such qualification.

9. In the conspectus of the aforesaid factual and legal position, we are of the firm view that this O.A. merits acceptance and is accordingly allowed. Impugned orders, Annexures A-14 and A-15 are quashed and set aside. The respondents are directed to take further steps and offer appointment to the applicants within a period of two months from the date of receipt of a copy of this order. However, the parties are left to bear their own respective costs.

(SANJEEV KAUSHIK)
MEMBER (J)

(P. GOPINATH)
MEMBER (A)

Place: Chandigarh.
Dated: 04.09.2018

HC*